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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/662,636 09/15/00 BONAVENTURE

L P19978

007055  
GREENBLUM & BERNSTEIN  
1941 ROLAND CLARKE PLACE  
RESTON VA 20191

PM92/0102

EXAMINER
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MAR, M

ART UNIT	PAPER NUMBER
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3619

DATE MAILED:

01/02/01

4

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/662,636**

Applicant(s)  
**Bonaventure et al**

Examiner  
**Michael Mar**

Group Art Unit  
**3619**



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire Three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-31 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☒ Claim(s) 1-26 is/are allowed.

☒ Claim(s) 27-31 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☒ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 27-31 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 16-18, 20-34, 37-49, 76

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and 77 of copending Application No. 08/ 759,416. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are drawn to the same ventilating structure for providing air cooling of a boot for use with a skate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

**3. Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231

**or faxed to:**

(703) 308-2571

(for formal communications intended be entered)

(all informal communications should be labeled "PROPOSED" OR "DRAFT")

**or hand delivered to:**

Crystal Park 5, 2451 Crystal Drive, Arlington, Virginia 22202

Seventh Floor(receptionist)

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Mar at telephone number (703) 308-2087, or by e-mail to:

michael.mar@uspto.gov

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



MICHAEL MAR

14-01

Primary Examiner

M.Mar

Jan 1, 2001